

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant	:	Scharp, et al.
Appl. No.	:	unknown
Filed	:	herewith
For	:	IMPLANTATION OF ENCAPSULATED BIOLOGICAL MATERIALS FOR TREATING DISEASES
Examiner	:	unknown
Group Art Unit	:	unknown

PETITION TO MAKE SPECIAL UNDER 37 C.F.R. § 1.102(d)

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Applicants hereby petition the Commissioner to make the present application special in accordance with 37 C.F.R. § 1.102(d) and to advance the present application for examination because the application relates to biotechnology and the Applicant is a small entity, as set forth in M.P.E.P. § 708.02 (XII).

(A) The claimed invention has been assigned to Novocell, Inc., which is a small entity.

(B) The patent application relates to encapsulation of insulin producing cells for transplantation to a subcutaneous site for the treatment of diabetes. Applicants have achieved a success with the encapsulated cells described in the application that has not been reported by other workers in the art. This technology is a major asset of Novocell, Inc.

(C) The development of the technology will be significantly impaired if examination of the patent application is delayed because a granted patent is needed to maintain interest from investors. Without investors, Novocell, Inc. will not have the funding it needs to develop this technology.

Furthermore, this field is very competitive. If the examination of the patent application is delayed, development of this technology by Novocell, Inc. will be significantly impaired because the particulars of the methods and compositions, when made public upon publication of the

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application, will allow competitors to capitalize on the technology based upon Applicants' disclosure. Applicant is a small entity with a small research staff. Many competitors in this field are large pharmaceutical companies with the resources to quickly expand on the compositions and methods disclosed in this patent application. Thus, development of the technology by Novocell, Inc. will be significantly impaired if examination were delayed. Such a delay would be a severe handicap to Applicants in their own further development of their invention, in the face of such competition, once key aspects of the invention are exposed by publication of Applicant's patent application.

Another consideration is that while Applicants desire to focus their future research in the diabetes area, of course the invention has ramifications in other fields. The application has applications in many areas of biology as the encapsulation described can be applied to diverse cell types for use in treatment of diverse diseases and conditions. A grant of Patent is needed to facilitate licensing in this regard. The grant of a patent would foster collaborative research between Applicants and other entities to deliver other types of cells by the technology described in the patent. The grant of a patent will foster these relationships which are less likely to develop if grant of the patent is delayed. The development of such relationships for development of the technology as applied to diverse cell types will be significantly impaired if examination of the patent application is delayed.

Applicants respectfully submit that they are entitled to grant of this petition for the reasons provided above.

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In accordance with 37 C.F.R. § 1.102(d), Applicants file herewith the fee set forth by 37 C.F.R. § 1.17(h). Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: Oct. 14, 2003

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